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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/644,676	08/24/2000	Xiaohong Peng	261-102P-WLK	3000

7590 05/22/2003

LAW OFFICES OF WILLIAM L. KLIMA, P.C.  
P.O. Box 2855  
Stafford, VA 22555-2855

EXAMINER

WINGOOD, PAMELA LYNN

ART UNIT	PAPER NUMBER
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3736

DATE MAILED: 05/22/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No. 09/644,676	Applicant(s) Peng
Examiner Pamela Wingood	Art Unit 3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1)  Responsive to communication(s) filed on Amendment A filed 3.3.03
- 2a)  This action is FINAL.      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

- 4)  Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) 7-16 is/are allowed.
- 6)  Claim(s) 1, 4, and 5 is/are rejected.
- 7)  Claim(s) 2, 3, and 6 is/are objected to.
- 8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a)  The translation of the foreign language provisional application has been received.
- 15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1)  Notice of References Cited (PTO-892)      4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)      5)  Notice of Informal Patent Application (PTO-152)
- 3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_      6)  Other: \_\_\_\_\_

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## **DETAILED ACTION**

### *Specification*

1. The abstract of the disclosure is objected to because at line 2, the word “women” should be “woman’s”. Correction is required. See MPEP § 608.01(b).

### *Claim Objections*

2. Claims 2, 3, 7, 8 and 12, are objected to because of the following informalities: The use of the terms parentheses in claims in improper. Appropriate correction is required. Furthermore,
3. The indicated allowability of claims 1,4 and 5 is withdrawn in view of the newly discovered reference(s) to Foster (015). Rejections based on the newly cited reference(s) follow.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 4 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Foster (015).

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Foster (015) discloses an ovulation detecting reagent comprising a first component conducting a color reaction with hydrogen peroxide, and a second component comprising an aqueous solution of hydrogen peroxide, where the substance of the first component is selected from the benzidine compounds (Col 1, Lns. 10-15, 49-55 and Col. , lns. 13-20, and 62-72).

***Allowable Subject Matter***

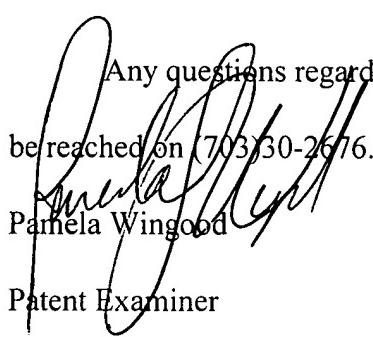
6. Claims 7-16 are allowed.
7. Claims 2,3 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. Applicant's arguments with respect to claims 1, 4 and 5 have been considered but are moot in view of the new ground(s) of rejection.

Examiner has reconsidered the Foster (015) reference and has decided to apply the piece of art to the above rejected claims. Examiner believe that the above noted claims are anticipated because the Foster (015) reference discloses an ovulation detecting reagent comprising a first component conducting a color reaction with hydrogen peroxide, and a second component comprising an aqueous solution of hydrogen peroxide, where the substance of the first component is selected from the benzidine compounds (Col 1, Lns. 10-15, 49-55 and Col. , lns. 13-20, and 62-72).

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***Allowable Subject Matter***

9. Claims 7-16 are allowed.
10. Claims 2,3 and 6 are objected to as being dependent upon a rejected base claim, but
11. The following is a statement of reasons for the indication of allowable subject matter:  
because prior art does not suggest or disclose the content of substance of the giving weight or a  
kit of the claimed ratios or weight..

  
Any questions regarding this application can be addressed to Pamela Wingood who can  
be reached on (703)30-2676.

Pamela Wingood  
Patent Examiner

May 17, 2003